

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF PUERTO RICO

ORLANDO ALEJANDRO-ORTIZ, ET ALS  
PLAINTIFFS

V.

PUERTO RICO ELECTRIC POWER  
AUTHORITY, ET ALS  
DEFENDANTS

CIVIL NO. 10-1320 (SCC)

TAXATION OF COSTS

**ORDER**

On June 25, 2012, the Court entered a judgment (ECF No. 323), subsequently amended on November 08, 2012 (*ECF No. 367*), against co-Defendant Puerto Rico Electric Power Authority (“PREPA”). Plaintiffs Orlando Alejandro-Ortiz, Sonia Rodriguez-Jimenez and minors J.A.A.R. and B.A.R. moved for taxation of costs on July 9, 2012 (*ECF No. 328*), followed by a Response by PREPA on July 26, 2012 (*ECF No. 345*). On November 13, 2012, PREPA filed a Notice of Appeal (*ECF No. 368*), which was subsequently amended on November 20, 2012 (*ECF No. 370*).

“It is often sound policy ... to wait until a controversy is finally decided on the merits before awarding costs, and to then determine who is the ‘prevailing party’, instead of judging that issue piecemeal at each stage of the litigation.” Furman v. Cirrito, 782 F.2d 353, 355-56 (2<sup>nd</sup> Cir. 1986). Thus, a district court “may wait until a judgment is affirmed on appeal before awarding costs.” O’Ferral v. Trebol Motors Corp., 45 F.3d 561, 564 (1<sup>st</sup> Cir. 1995), citing 10 C. Wright & A. Miller, Federal Practice and Procedure § 2668, at 212 (2d Ed. 1983). Once the court of appeals has issued its mandate, the prevailing party has 14 days to re-file its motion for costs. L.Cv.R. 54(b). Vazquez-Diaz v. Hernandez-Arencibia, 2010 U.S. Dist. LEXIS 28380 (D.P.R. 2010).

WHEREFORE, all premises considered, Plaintiffs’ application for taxation of costs is denied without prejudice. Once judgment on appeal is entered and the appellate mandate becomes final, the prevailing party may file a bill of costs for adjudication by the Clerk. Fed. R. App. P. 39; Fed. R. Civ. P. 54(d); L.Cv.R. 54(b).

IT IS SO ORDERED.

In San Juan, Puerto Rico, this November 28, 2012.

FRANCES RIOS DE MORAN  
CLERK OF COURT

s/Jorge Soltero Palés  
Jorge Soltero Palés, Esq.  
Staff Attorney